

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ALYSIA SARGENT,

Plaintiff,

Civ. No. 6:18-cv-508-MC

v.

ORDER

MARK FOX; LAURA RACKNER, ESQ.;
WENDY BOURG, PH.D; JOHN AND
JANE DOES 1-100,

Defendants.

MCSHANE, Judge:

Plaintiff Alysia Sargent, proceeding *pro se*, brings this action against the father of their child, the father's attorney, a psychologist who worked with the attorney, and numerous John and Jane Does. The 17 page complaint provides a lengthy narrative of Sargent's troubled, decade long relationship with Mark Fox. I need not go into the details of the complaint, other than to comment that the narrative appears to lack any federal claim.¹ Sargent brings state law claims of child endangerment, misrepresentation, conspiracy to commit a tort, and intentional infliction of

¹ As discussed below, although Sargent brings a due process claim, that claim is not viable under the facts pleaded.

emotional distress. These claims all relate to defendants' alleged conspiracy to prevent Sargent from spending time with her son.

Federal courts are courts of limited jurisdiction. A court may *sua sponte* raise the issue of subject matter jurisdiction. *Nevada v. Bank of America Corp.*, 672 F.3d 661, 673 (9th Cir. 2012). "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action. Fed. R. Civ. P. 12(h)(3).

Sargent brings a Fourteenth Amendment claim, alleging defendants denied her due process guaranteed under the United States Constitution. The Fourteenth Amendment, however, "which prohibits the states from denying federal constitutional rights and which guarantees due process, applies to acts of the states, not to acts of private persons or entities." *Rendell-Baker v. Kohn*, 457 U.S. 830, 838 (1982). Therefore, Sargent fails to state a Fourteenth Amendment claim against these defendants, who are not state actors. As there is no viable federal claim, this court lacks subject matter jurisdiction, and this matter is dismissed, without prejudice.²

IT IS SO ORDERED.

DATED this 20th day of April, 2018.

/s/ Michael McShane
Michael J. McShane
United States District Judge

² As the complaint alleges Sargent defendants are residents of Oregon, this court lacks diversity jurisdiction.